

REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-10 are pending and stand rejected. Claims 1, 2, and 9 have been amended. Claims 1, 2, 9 and 10 are objected to for containing informalities.

Applicant thanks the Examiner for his observation and has amended the claims to correct the errors noted. For the amendments made to the claims, applicant respectfully requests that the objection be withdrawn.

Claims 1-10 stand rejected under 35 USC 101 as allegedly being directed to non-statutory subject matter.

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims. However, the independent claim has been amended to provide a useful and concrete result or to express the invention more clearly.

For the amendments made to the claims, applicant respectfully requests that the rejection be withdrawn.

Claims 1-2, 5, 7 and 9 stand rejected under 35 USC 112, first paragraph as failing to comply with enablement requirement.

The Office Action states that that "it appears that at least four control bits are required (two for a key and two for at least one index) and that only one set of control bits would not produce a working result.

Applicant respectfully disagrees with, and explicitly traverses, the reason for rejecting the claims. The table in paragraph [0165] shows that two bits (bits 7 and 6) are used to control the whole structuring key ("[t]he whole structuring key is thus coded using a variable set of bytes, each of them being controlled by the 2 most significant bits with the following semantics."). Accordingly, at least two bits are sufficient to control the whole structure.

For at least this reason, applicant believes that the at least two bits recited in the claims is adequately described in the specification and that the rejection of the claims has been overcome. Applicant respectfully requests that the rejection be withdrawn.

Claims 3 and 9 stand rejected under 35 USC 112, second paragraph as failing to point and distinctly claim the subject matter which is regarded as the invention.

Applicant respectfully disagrees with, and explicitly traverses, the reason for rejecting the claims.

With regard to claim 3, applicant submits that the binary fragment comprises content and a sequence and that the method is a method of decoding the binary fragment by "scanning said sequence identification information." Thus, the method steps are directed to the decoding of the binary fragment by using elements of the binary fragment.

For at least this reason, applicant believes that the subject matter recited in claim 3 is adequately recited in the claims.

With regard to claim 9, this claim has been amended to more clearly express the signal element as including a binary fragment.

For at least this reason, applicant believes that the subject matter recited in claim 9 is adequately recited in the claims.

Claims 1-10 stand rejected under 35 USC 103(a) as being unpatentable over Buford (PCT/US97/04574, in view of Martin, Bruce ("WAP Binary XML Content Format")). North is further used to provide evidence that schemas and DTD were obvious variants to one skilled in the art at the time of Applicant's subject matter.

The Office Action states that Buford does not explicitly teach the remaining limitations as claimed. Bruce though, discloses wherein said binary fragment includes at least two control bits. (see page 10). The Office Action further states that "to apply the teachings of North for the benefit of Buford in view of Bruce, ... would have allowed a programmer to model information, as taught by North in the section entitled 'Developing the DTD'"

Applicant respectfully disagrees with, and explicitly traverses the reason for rejecting the claims. As Buford, Bruce and North are recited in rejecting the claims, applicant believes that the reason for rejecting the claims is based on the combination of Buford, Bruce and North and not just Buford and Bruce as is recited in the Office Action.

In this case, it is respectfully submitted that the Office has impermissibly used the teachings of the present invention as a blueprint for selecting and combining the references cited.

“A statement that modification of the prior art to meet the claimed invention would have been “well within the ordinary skill of the art at the time the claimed invention was made” because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a prima facie case of obviousness without some objective reason to combine the teachings of the references.” *Ex parte Levengood* 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP §2143.01, p. 2100-131.

Applicant respectfully submits that the references fail to provide motivation to combine their multiple teachings and that the Office Action merely states that the motivation to combine the references "would have allowed a system designer to reduce the transmission size of XML documents." In this case, the Office Action fails to show that the references provide the motivation to combine their teachings and, hence, it is submitted that the references cited were selected based on the teachings provided in the instant application.

With regard to the remaining independent claims, these claims recite subject matter similar to that recited in claim 1 and are also allowable for the same arguments made with regard to claim 1.

With regard to the remaining dependent claims, these claims depend from allowable base claims and are also allowable by virtue of their dependency upon an allowable base claim.

For at least the above reasons, applicant submits that a case of obviousness has not been set forth and respectfully requests that the rejection be withdrawn.

Claims 3-4, 6, 8 and 10 stand rejected under 35 US 103(a) as being unpatentable over Buford in view of North, which are the same references recited in rejecting the claims in the prior Office Action.

Applicant respectfully disagrees with, and explicitly traverses, the reason for

rejecting the claims.

In this case, applicant respectfully submits that the references fail to provide motivation to combine their multiple teachings and that the Office Action merely states that the motivation to combine the references "[i]t would have been obvious ... to apply the teachings of North for the benefit of Buford because to do so would have allowed a programmer to model information as taught by North in the section entitled 'Developing the DTD'." In this case, the Office Action fails to show that the references provide the motivation to combine their teachings and, hence, it is submitted that the references chosen to be combined were selected based on the teachings provided in the instant application.


For at least the above reasons, applicant submits that a case of obviousness has not been set forth and respectfully requests that the rejection be withdrawn.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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